

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**TOBBY LYNN SMALL,**

**Plaintiff,**

**VS.**

**Case No 1:10cv121  
The Honorable Irene M. Keeley**

**JAMES R. RAMSEY, et al.,**

**Defendants.**

**MEMORANDUM OPINION/ORDER**

17 August 2011 the Court entered an order. The order gave the Defendants named therein the following opportunity:

In order to protect from an inadvertent Court ordered disclosure of claimed attorney client privileged materials and or claimed opinion work product protected materials contained in the documents identified in the privilege log filed as part of DE 249 and herein ordered to be produced in discovery<sup>1</sup>, Defendants may appear before the Court on 24 August 2011 at 2:30 p.m. and present copies of those documents they claim as protected for *in camera* review. The Court will review the same<sup>2</sup> in the presence of counsel for the Defendants and will make decisions on exclusions or redactions permitted or denied.

24 August, 2011 said Defendants appeared by Counsel for *in camera* hearing before the Court. The Court proceeded to review selected documents on the record by number correlating to the numbers contained in Defendants’ privilege log filed in this matter. During said proceeding the Court determined some selected matters within the documents under review were clearly attorney client

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<sup>1</sup> CNA 0912, CNA 0911, CNA 910, CNA 00909, CNA 00886-00888, CNA 00885, CNA 00875, CNA 00874, CNA 00699-702, CNA 00664-00698 between 2/20/2009 and 5/1/2009, CNA 00655-00663, CNA 00620-00654 between 2/20/2009 and 5/1/2009, CR 0031-0023, CR 00525-0028, CR 0023-0024, CR 0021-0022, CR 0020, CR 0019, CR 0018, and CR 0017.

<sup>2</sup>CNA 0912, CNA 0911, CNA 910, CNA 00909, CNA 00886-00888, CNA 00885, CNA 00875, CNA 00874, CNA 00699-702, CNA 00664-00698 between 2/20/2009 and 5/1/2009, CNA 00655-00663, CNA 00620-00654 between 2/20/2009 and 5/1/2009, CR 0031-0023, CR 00525-0028, CR 0023-0024, CR 0021-0022, CR 0020, CR 0019, CR 0018, and CR 0017.

privileged or opinion work product protected. The Court directed Counsel for Defendants to redact the same from the documents and any duplicates of the documents prior to production in discovery. The Court also directed Counsel for Defendants to file a copy of the documents redacted showing the redactions highlighted in “yellow” in order that there be a record of the same. They will be placed under seal for Court eyes only. The Court also noted that CMA 00499-500 and CMA 00550-555 were within the time frame covered by the Court’s order of disclosure (February 20 through May 1) and ordered those documents produced as redacted by order of the Court even if they were duplicates of other documents to be produced in redacted form.

Upon receipt of the redacted copies of the documents reviewed by the Court and ordered produced as redacted, the Clerk is hereby directed to file the same under seal for the Court’s eyes only.

The deadlines established in the order of 17 August 2011 remain unchanged.

For the clerk’s filing purposes, this Order is to be filed and cross-indexed to DE 236, 237 and 238.

It is so **ORDERED**.

The Clerk of the United States Court for the Northern District of West Virginia is directed to provide a copy of this order to all counsel of record.

DATED: 25 August 2011

*John S. Kaul*  
JOHN S. KAULL  
UNITED STATES MAGISTRATE JUDGE